

1984 S.C. Op. Atty. Gen. 22 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-4, 1984 WL 159813

Office of the Attorney General

State of South Carolina

Opinion No. 84- **4**

January 17, **1984**

*1 The Honorable Daniel A. Rhodes
Anderson County Council
District #4
Post Office Box 4046
Anderson, South Carolina 29622

Dear Councilman Rhodes:

Thank you for your letter of **January** 10, **1984**, with the information requested by me. I am enclosing the full text of Opinion No. 77-279, concerning the use of secret ballots to elect board officers. The standard of review used by this Office to determine the validity of a prior opinion is whether that opinion is clearly erroneous. I have reviewed Opinion No. 77-279, and I do not believe it is clearly erroneous; thus, I believe it could be followed by a public body electing its officers.

[Section 30-4-90\(a\)\(3\), Code of Laws of South Carolina](#) (1983 Cum.Supp.), states:

(a) All public bodies shall keep written minutes of all their public meetings. Such minutes shall include but need not be limited to:

(3) The substance of all matters proposed, discussed or decided and, at the request of any member, a record, by an individual member, of any votes taken.

Opinion No. 77-279 must be read with [Section 30-4-90\(a\)\(3\)](#), which was enacted after that opinion was written. It would appear that secret ballots may be used; but if a member of council asks that a vote be recorded, than a secret ballot could not be used in that instance. Further, as the prior opinion concludes, if votes taken by secret ballot should be recorded by name, then such votes would become a matter of public record subject to disclosure, after the votes are submitted and tabulated.

The text of Opinion No. 77-279 refers to an opinion written in 1975 by former Deputy Attorney General Karen Henderson. I would have enclosed it for you review, but I have been unable to locate it in our opinion file.

I hope this information will be useful to you.

Sincerely,

Patricia D. Petway
Staff Attorney

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